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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,092	03/26/2004	Erhard Liebig	5034.1002	9737

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NEW YORK, NY 10018

EXAMINER
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RODRIGUEZ, WILLIAM H

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,092	<b>Applicant(s)</b> LIEBIG, ERHARD	
	<b>Examiner</b> William H. Rodriguez	<b>Art Unit</b> 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9-15 and 17-23 is/are rejected.
- 7) ☒ Claim(s) 2-8 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/26/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 12 and 22 are objected to because of the following informalities:

In claim 12 line 1 the recitation “performed at at” is presumed to be --performed at-- for proper clarity. Appropriate correction is required.

In claim 22 line 3 the recitation “the generator” is presumed to be --the hot gas generator-  
- for proper antecedent basis and clarity. Appropriate correction is required.

In claim 22 line 4 the recitation “the generator” is presumed to be --the hot gas generator-  
- for proper antecedent basis and clarity. Appropriate correction is required.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, **“heating of the hot gas (claim 9); means for regulating (claim 13); an adjusting device (claim 15); a delivery device (claim 15); a flap (claim 16); a blower (claim 16); a hot-water generator (claim 18); a steam generator (claim 18); a gas turbine plant (claim 19); a heat-recovery boiler (claim 19); a regulator (claim 22); a device (claim 22)”** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5. It is unclear from the specification what is the so called “parameter”; how is it being adapted/adjusted/regulated?. Notice that in paragraphs 43-45 of the specification, the following recitations are found: “the parameter changes with regard to temperature”; “the parameters depends on the actual mass”; “in accordance with these changes in the parameters”. However,

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nowhere in the specification a clear definition of this so called “a parameter” was found. What is this parameter?, How is it defined?, Is it a formula that depends on temperature or other factors, What are its units?. Appropriate correction is required.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claims 1 and 22 recite the limitation "adapting a parameter" in line 1. It is unclear from the claims or the specification what parameter is being adapted/adjusted/regulated. Is it the pressure, the temperature, the mass-flow or ?. Examiner suggests adding into the independent claims a recitation that clarifies what applicant means by “adapting a parameter” (i.e., wherein said parameter is at least one of a pressure, temperature, mass-flow). What is this parameter?, how is it defined in the specification?.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claims 1, 9-15 and 17-23 are rejected under 35 U.S.C. 102(b) as being anticipated by **Llnnemeyer (EP 0 967 366 B1—reference provided by applicant)**.

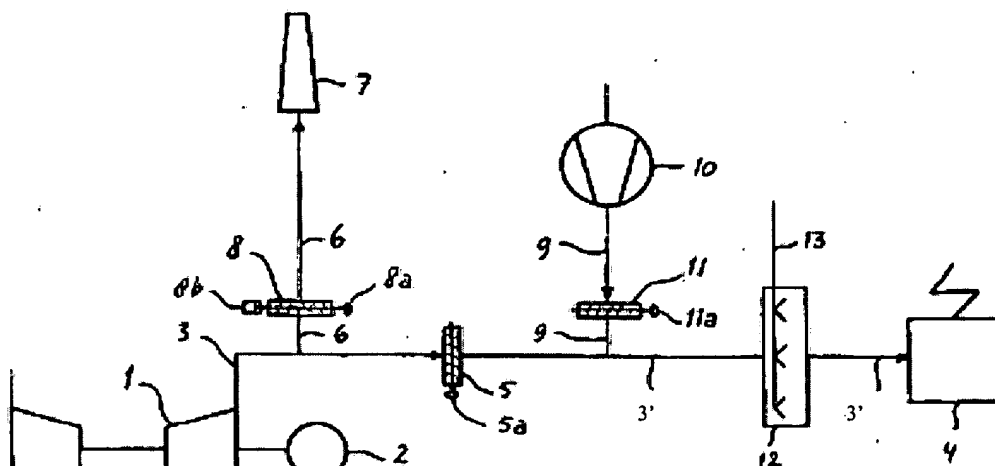


Fig. 1

With regards to claims 22 and 23, **Llnnemeyer** teaches an arrangement comprising: a hot-gas generator 1 emitting a mass flow of a hot gas; a technological process 4 disposed downstream of the hot-gas generator; a connector element disposed between the generator and the technological process and configured to feeding a first portion 3' of the mass flow to the technological process; an exhaust 6 including a regulator 8 for discharging a regulated second portion of the mass flow from the connector element and a device 12 configured to influence a temperature of the hot gas disposed between the hot-gas generator 1 and the technological process 4, wherein the hot-gas generator is a combustion engine and the technological process is a steam generator, said influencing includes heating the hot-gas downstream of the hot-gas generator, wherein the heating is performed using an auxiliary combustion, and wherein the auxiliary combustion is performed using said device 12 (burner). See particularly Figure 1 above.

With regards to the method claims 1, 9-15 and 17-21, since **Linnemeyer** has the same structure as claimed, it is inherent that **Linnemeyer's** device would be able to perform the recited method steps. See particularly Figure 1 above.

11. Claims 1, 9-15 and 17-23 are rejected under 35 U.S.C. 102(b) as being anticipated by **Kessler et al. (WO 94/29642—reference provided by applicant)**.

With regards to claims 22 and 23, **Kessler** teaches an arrangement comprising: a hot-gas generator 2 emitting a mass flow of a hot gas; a technological process 6 disposed downstream of the hot-gas generator; a connector element 4 disposed between the generator and the technological process and configured to feeding a first portion of the mass flow to the technological process; an exhaust 42 including a regulator 40 for discharging a regulated second portion of the mass flow from the connector element and a device (26, 28) configured to influence a temperature of the hot gas disposed between the hot-gas generator 2 and the technological process 6, wherein the hot-gas generator is a combustion engine and the technological process is a steam generator, said influencing includes heating the hot-gas downstream of the hot-gas generator, wherein the heating is performed using an auxiliary combustion, and wherein the auxiliary combustion is performed using said device (26, 28) (burner). See particularly Figure 1.

With regards to the method claims 1, 9-15 and 17-21, since **Kessler** has the same structure as claimed, it is inherent that **Kessler's** device would be able to perform the recited method steps. See particularly Figure 1.

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12. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by **Prior Art Figure 3 (PAF3)**.

As stated by applicant, the flap 10 in Figure 3 can be actuated to an intermediate position (page 9 last line to page 10 the first line). In this intermediate position, a first portion of the hot-gas from the hot-gas generator 1 is discharged through exhaust 9 while a second portion of hot-gas from the hot-gas generator is delivered to the technological process 3. When flap 10 is at this intermediate position, the connecting element 11 carrying the hot-gas is in fluid communication with the outside air (cold-gas --a fluid at a much lower temperature) through the exhaust duct 9. Thus this fluid communication between a hot-gas and a cold-gas influences the temperature of the hot-gas between the hot-gas generator and the technological process.

Therefore, **PAF3** teaches a method comprising the following steps: emitting a mass flow of the hot-gas from the hot-gas generator 1 into a connecting element 11; discharging a first portion of the mass flow from the connecting element using an exhaust 9; feeding a second portion (when flap 10 is at the intermediate position) of the mass flow to the technological process 3 using the connecting element; and influencing a temperature of the hot gas between the hot-gas generator and the technological process. See Prior Art Figure 3.

***Allowable Subject Matter***

13. Claims 2-8 and 16 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.



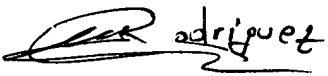
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***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5/10/06  
William H. Rodriguez  
Primary Examiner  
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